
By: **Senators Hogan, Brinkley, Colburn, Currie, DeGrange, Exum,
Forehand, Garagiola, Giannetti, Greenip, Hafer, Haines, Harris,
Hollinger, Hooper, Jacobs, Kittleman, Kramer, Lawlah, McFadden,
Middleton, Mooney, Munson, Schrader, Stoltzfus, and Stone**

Introduced and read first time: January 31, 2003

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Public-Private Transportation Act of 2003**

3 FOR the purpose of authorizing a person to enter into an agreement with a certain
4 responsible public entity for the acquisition or construction of or improvement to
5 a transportation facility; stating the public policy objectives of the General
6 Assembly regarding transportation facilities; authorizing a person to request
7 approval to acquire, construct, improve, maintain, or operate a transportation
8 facility; authorizing certain public entities to request proposals for the
9 acquisition or construction of or improvement to a transportation facility;
10 establishing a method for a person to request approval to acquire, construct,
11 improve, maintain, or operate a transportation facility; requiring certain items
12 to be included in an application; establishing the circumstances under which a
13 responsible public entity may authorize the acquisition or construction of or
14 improvement to a transportation facility; authorizing a public entity to enter
15 into certain service agreements; establishing certain requirements related to the
16 provision of certain notice to certain local jurisdictions; authorizing a certain
17 dedication of certain public property; establishing the powers and duties of an
18 operator of a certain transportation facility; authorizing a certain operator of a
19 transportation facility and a certain responsible public entity to enter into a
20 certain comprehensive agreement; requiring a comprehensive agreement to
21 contain certain provisions; authorizing a responsible public entity to take action
22 to obtain certain federal, State, or local assistance; authorizing the Department
23 of Transportation to bring an action for a judgment by default under certain
24 circumstances; authorizing certain remedies on entry of a certain judgment by
25 default; authorizing the exercise of certain powers of condemnation; providing
26 for the standards for cooperation of certain entities when a transportation
27 facility will affect certain public service providers under certain circumstances;
28 providing for the operation of certain police powers in certain transportation
29 facilities; providing for a certain method for a dedication of certain assets after a
30 certain date; providing for the sovereign immunity of certain entities; providing
31 for the application of certain procurement procedures to a comprehensive
32 agreement under certain circumstances; establishing a certain jurisdiction for

1 the Department; defining certain terms; and generally relating to
2 public-private transportation agreements.

3 BY adding to
4 Article - Transportation
5 Section 2-701 through 2-719 to be under the new subtitle "Subtitle 7.
6 Public-Private Transportation"
7 Annotated Code of Maryland
8 (2001 Replacement Volume and 2002 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article - Transportation**

12 **SUBTITLE 7. PUBLIC-PRIVATE TRANSPORTATION.**

13 2-701.

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 (B) "AFFECTED LOCAL JURISDICTION" MEANS ANY COUNTY OR MUNICIPAL
17 CORPORATION IN WHICH ALL OR A PORTION OF A QUALIFYING TRANSPORTATION
18 FACILITY IS LOCATED.

19 (C) "COMPREHENSIVE AGREEMENT" MEANS THE AGREEMENT BETWEEN THE
20 OPERATOR AND THE RESPONSIBLE PUBLIC ENTITY REQUIRED BY § 2-709 OF THIS
21 SUBTITLE.

22 (D) "MATERIAL DEFAULT" MEANS A DEFAULT BY THE OPERATOR IN THE
23 PERFORMANCE OF THE OPERATOR'S DUTIES UNDER § 2-708(F) OF THIS SUBTITLE
24 THAT:

25 (1) JEOPARDIZES ADEQUATE SERVICE TO THE PUBLIC FROM A
26 QUALIFYING TRANSPORTATION FACILITY; AND

27 (2) REMAINS UNREMEDIED AFTER THE RESPONSIBLE PUBLIC ENTITY
28 HAS PROVIDED NOTICE TO THE OPERATOR AND A REASONABLE CURE PERIOD HAS
29 ELAPSED.

30 (E) "OPERATOR" MEANS THE PRIVATE ENTITY THAT IS RESPONSIBLE FOR THE
31 ACQUISITION, CONSTRUCTION, IMPROVEMENT, MAINTENANCE, OR OPERATION OF A
32 QUALIFYING TRANSPORTATION FACILITY.

33 (F) (1) "PUBLIC ENTITY" MEANS THE STATE OR ANY AGENCY OF THE STATE,
34 OR A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION.

35 (2) "PUBLIC ENTITY" DOES NOT INCLUDE A PUBLIC SERVICE COMPANY.

1 (G) "QUALIFYING TRANSPORTATION FACILITY" MEANS A TRANSPORTATION
2 FACILITY ACQUIRED, CONSTRUCTED, IMPROVED, MAINTAINED, OR OPERATED BY A
3 PERSON IN ACCORDANCE WITH THIS SUBTITLE.

4 (H) "RESPONSIBLE PUBLIC ENTITY" MEANS THE PUBLIC ENTITY THAT HAS
5 JURISDICTION TO ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE A
6 TRANSPORTATION FACILITY.

7 (I) "REVENUES" MEANS THE USER FEES OR SERVICE PAYMENTS GENERATED
8 BY A QUALIFYING TRANSPORTATION FACILITY.

9 (J) "SERVICE CONTRACT" MEANS A CONTRACT ENTERED INTO BETWEEN A
10 PUBLIC ENTITY AND THE OPERATOR PURSUANT TO § 2-705 OF THIS SUBTITLE.

11 (K) "SERVICE PAYMENTS" MEANS PAYMENTS TO THE OPERATOR OF A
12 QUALIFYING TRANSPORTATION FACILITY PURSUANT TO A SERVICE CONTRACT.

13 (L) "TRANSPORTATION FACILITY" HAS THE MEANING STATED IN § 3-101(L) OF
14 THIS ARTICLE.

15 (M) "USER FEES" MEANS THE RATES, FEES, OR OTHER CHARGES IMPOSED BY
16 THE OPERATOR OF A QUALIFYING TRANSPORTATION FACILITY FOR THE USE OF ALL
17 OR A PORTION OF A QUALIFYING TRANSPORTATION FACILITY PURSUANT TO THE
18 COMPREHENSIVE AGREEMENT.

19 2-702.

20 (A) THE GENERAL ASSEMBLY FINDS THAT:

21 (1) THERE IS A PUBLIC NEED FOR TIMELY ACQUISITION OR
22 CONSTRUCTION OF AND IMPROVEMENTS TO TRANSPORTATION FACILITIES IN THE
23 STATE THAT ARE COMPATIBLE WITH STATE AND LOCAL TRANSPORTATION PLANS;

24 (2) THE PUBLIC NEED MAY NOT BE WHOLLY SATISFIED BY EXISTING
25 WAYS IN WHICH TRANSPORTATION FACILITIES ARE ACQUIRED, CONSTRUCTED, OR
26 IMPROVED; AND

27 (3) AUTHORIZING PERSONS TO ACQUIRE, CONSTRUCT, IMPROVE,
28 MAINTAIN, OR OPERATE ONE OR MORE TRANSPORTATION FACILITIES MAY RESULT
29 IN THE AVAILABILITY OF IMPROVED TRANSPORTATION FACILITIES TO THE PUBLIC
30 IN A MORE TIMELY OR LESS COSTLY FASHION, THEREBY SERVING THE PUBLIC
31 SAFETY AND WELFARE.

32 (B) AN ACTION SERVES THE PUBLIC PURPOSES OF THIS SUBTITLE IF THE
33 ACTION FACILITATES THE TIMELY ACQUISITION OR CONSTRUCTION OF, OR
34 IMPROVEMENT TO, A QUALIFYING TRANSPORTATION FACILITY OR THE CONTINUED
35 OPERATION OF A QUALIFYING TRANSPORTATION FACILITY.

36 (C) THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO PROMOTE ITS
37 UNDERLYING PURPOSES AND POLICIES.

1 2-703.

2 (A) A PERSON SEEKING AUTHORIZATION UNDER THIS SUBTITLE TO ACQUIRE,
3 CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE A TRANSPORTATION FACILITY
4 SHALL FIRST OBTAIN APPROVAL OF THE RESPONSIBLE PUBLIC ENTITY UNDER §
5 2-704 OF THIS SUBTITLE.

6 (B) THE APPROVAL PROCESS MAY BE INITIATED BY:

7 (1) A PERSON REQUESTING APPROVAL UNDER § 2-704(A) OF THIS
8 SUBTITLE; OR

9 (2) THE RESPONSIBLE PUBLIC ENTITY REQUESTING PROPOSALS UNDER
10 § 2-704(B) OF THIS SUBTITLE.

11 2-704.

12 (A) (1) A PERSON MAY REQUEST APPROVAL FROM THE RESPONSIBLE
13 PUBLIC ENTITY TO BUILD A QUALIFIED TRANSPORTATION FACILITY.

14 (2) THE QUALIFIED TRANSPORTATION FACILITY MUST BE PART OF A
15 PROPOSED PROJECT IN THE CONSOLIDATED TRANSPORTATION PROGRAM AT THE
16 TIME THE PERSON SUBMITS THE REQUEST FOR APPROVAL.

17 (3) (I) A REQUEST MADE UNDER THIS SUBSECTION SHALL BE
18 ACCOMPANIED BY THE FOLLOWING MATERIAL AND INFORMATION:

19 1. A TOPOGRAPHIC MAP (1:2,000 OR OTHER APPROPRIATE
20 SCALE) INDICATING THE LOCATION OF THE TRANSPORTATION FACILITY;

21 2. A DESCRIPTION OF THE TRANSPORTATION FACILITY
22 INCLUDING:

23 A. A COPY OF THE PROJECT INFORMATION FORM
24 REFERENCING THE TRANSPORTATION FACILITY AND PROPOSED PROJECT FROM THE
25 CONSOLIDATED TRANSPORTATION PROGRAM; AND

26 B. THE CONCEPTUAL DESIGN OF THE TRANSPORTATION
27 FACILITY AND ALL PROPOSED INTERCONNECTIONS WITH OTHER TRANSPORTATION
28 FACILITIES;

29 3. THE PROJECTED TOTAL LIFE-CYCLE COST OF THE
30 TRANSPORTATION FACILITY AND THE PROPOSED DATE FOR ACQUISITION OF THE
31 TRANSPORTATION FACILITY OR THE BEGINNING OF CONSTRUCTION OF, OR
32 IMPROVEMENTS TO, THE TRANSPORTATION FACILITY;

33 4. A STATEMENT SETTING FORTH THE METHOD BY WHICH
34 THE OPERATOR PROPOSES TO SECURE ALL PROPERTY INTERESTS REQUIRED FOR
35 THE TRANSPORTATION FACILITY INCLUDING:

1 A. THE NAMES AND ADDRESSES, IF KNOWN, OF THE
2 CURRENT OWNERS OF THE PROPERTY NEEDED FOR THE TRANSPORTATION
3 FACILITY;

4 B. THE NATURE OF THE PROPERTY INTERESTS TO BE
5 ACQUIRED; AND

6 C. ANY PROPERTY THAT THE RESPONSIBLE PUBLIC ENTITY
7 IS EXPECTED TO BE REQUESTED TO CONDEMN;

8 5. INFORMATION RELATING TO THE CURRENT
9 TRANSPORTATION PLANS OF EACH AFFECTED LOCAL JURISDICTION;

10 6. A LIST OF ALL PERMITS AND APPROVALS REQUIRED FOR
11 ACQUISITION OR CONSTRUCTION OF OR IMPROVEMENTS TO THE TRANSPORTATION
12 FACILITY FROM LOCAL, STATE, OR FEDERAL AGENCIES AND A PROJECTED
13 SCHEDULE FOR OBTAINING SUCH PERMITS AND APPROVALS;

14 7. A LIST OF PUBLIC UTILITY FACILITIES THAT WILL BE
15 CROSSED BY THE TRANSPORTATION FACILITY AND A STATEMENT OF THE PLANS OF
16 THE OPERATOR TO ACCOMMODATE SUCH CROSSINGS;

17 8. A STATEMENT SETTING FORTH THE OPERATOR'S
18 GENERAL PLANS FOR FINANCING AND OPERATING THE TRANSPORTATION FACILITY;

19 9. A STATEMENT SETTING FORTH THE OPERATOR'S PLANS
20 TO PAY THE REASONABLE VALUE FOR WORK PERFORMED AT THE TRANSPORTATION
21 FACILITY AT THE ESTIMATED PREVAILING WAGE;

22 10. THE NAMES AND ADDRESSES OF THE PERSONS WHO MAY
23 BE CONTACTED FOR FURTHER INFORMATION CONCERNING THE REQUEST; AND

24 11. ADDITIONAL MATERIAL AND INFORMATION AS THE
25 RESPONSIBLE PUBLIC ENTITY MAY REASONABLY REQUEST.

26 (II) THE RESPONSIBLE PUBLIC ENTITY MAY WAIVE THE
27 REQUIREMENT TO PROVIDE ANY OF THE INFORMATION IN SUBPARAGRAPH (I) OF
28 THIS PARAGRAPH.

29 (B) THE RESPONSIBLE PUBLIC ENTITY MAY REQUEST PROPOSALS FOR THE
30 ACQUISITION, CONSTRUCTION, IMPROVEMENT, OR OPERATION OF TRANSPORTATION
31 FACILITIES.

32 (C) (1) THE RESPONSIBLE PUBLIC ENTITY MAY GRANT APPROVAL FOR THE
33 ACQUISITION, CONSTRUCTION, IMPROVEMENT, OR OPERATION OF A
34 TRANSPORTATION FACILITY AS A QUALIFYING TRANSPORTATION FACILITY IF THE
35 RESPONSIBLE PUBLIC ENTITY DETERMINES THAT IT SERVES THE PUBLIC PURPOSE
36 OF THIS SUBTITLE.

1 (2) THE RESPONSIBLE PUBLIC ENTITY MAY DETERMINE THAT THE
2 ACQUISITION, CONSTRUCTION, IMPROVEMENT, OR OPERATION OF A
3 TRANSPORTATION FACILITY AS A QUALIFYING TRANSPORTATION FACILITY SERVES
4 THE PUBLIC PURPOSE OF THIS SUBTITLE IF:

5 (I) THERE IS A PUBLIC NEED FOR THE TYPE OF TRANSPORTATION
6 FACILITY PROPOSED TO BE OPERATED AS A QUALIFYING TRANSPORTATION
7 FACILITY;

8 (II) THE TRANSPORTATION FACILITY, THE PROPOSED
9 INTERCONNECTIONS WITH EXISTING TRANSPORTATION FACILITIES, AND THE
10 OPERATOR'S PLANS FOR OPERATION OF THE QUALIFYING TRANSPORTATION
11 FACILITY ARE REASONABLE AND COMPATIBLE WITH THE MARYLAND
12 TRANSPORTATION PLAN, THE CONSOLIDATED TRANSPORTATION PROGRAM, AND
13 ANY RELEVANT LOCAL TRANSPORTATION PLAN;

14 (III) THE ESTIMATED COST OF THE TRANSPORTATION FACILITY IS
15 REASONABLE IN RELATION TO SIMILAR FACILITIES; AND

16 (IV) THE OPERATOR'S PLANS WILL RESULT IN THE TIMELY
17 ACQUISITION OR CONSTRUCTION OF OR IMPROVEMENTS TO A TRANSPORTATION
18 FACILITY OR MORE EFFICIENT OPERATION OF AN EXISTING TRANSPORTATION
19 FACILITY.

20 (3) IN EVALUATING A REQUEST, THE RESPONSIBLE PUBLIC ENTITY MAY
21 RELY ON INTERNAL STAFF REPORTS PREPARED BY PERSONNEL FAMILIAR WITH THE
22 OPERATION OF SIMILAR FACILITIES OR THE ADVICE OF OUTSIDE ADVISORS OR
23 CONSULTANTS HAVING RELEVANT EXPERIENCE.

24 (D) THE RESPONSIBLE PUBLIC ENTITY MAY CHARGE A REASONABLE FEE TO
25 COVER THE COSTS OF PROCESSING, REVIEWING, AND EVALUATING A REQUEST
26 INCLUDING REASONABLE ATTORNEY'S FEES AND FEES FOR FINANCIAL AND OTHER
27 NECESSARY ADVISORS OR CONSULTANTS.

28 (E) THE APPROVAL OF THE RESPONSIBLE PUBLIC ENTITY SHALL BE SUBJECT
29 TO THE OPERATOR ENTERING INTO A COMPREHENSIVE AGREEMENT WITH THE
30 RESPONSIBLE PUBLIC ENTITY.

31 (F) (1) IN CONNECTION WITH ITS APPROVAL OF THE OPERATION OF THE
32 TRANSPORTATION FACILITY AS A QUALIFYING TRANSPORTATION FACILITY, THE
33 RESPONSIBLE PUBLIC ENTITY SHALL ESTABLISH A DATE FOR THE ACQUISITION OF
34 OR THE BEGINNING OF CONSTRUCTION OF OR IMPROVEMENTS TO THE QUALIFYING
35 TRANSPORTATION FACILITY.

36 (2) THE RESPONSIBLE PUBLIC ENTITY MAY EXTEND THE DATE
37 ESTABLISHED UNDER THIS SUBSECTION.

1 2-705.

2 A PUBLIC ENTITY MAY CONTRACT WITH AN OPERATOR FOR TRANSPORTATION
3 SERVICES TO BE PROVIDED BY A QUALIFYING TRANSPORTATION FACILITY IN
4 EXCHANGE FOR THE SERVICE PAYMENTS AND OTHER CONSIDERATION THAT THE
5 PUBLIC ENTITY DEEMS APPROPRIATE.

6 2-706.

7 (A) A PERSON REQUESTING APPROVAL FROM, OR SUBMITTING A PROPOSAL
8 TO, A RESPONSIBLE PUBLIC ENTITY UNDER § 2-704 OF THIS SUBTITLE SHALL NOTIFY
9 EACH AFFECTED LOCAL JURISDICTION BY FURNISHING A COPY OF THE PERSON'S
10 REQUEST OR PROPOSAL TO EACH AFFECTED LOCAL JURISDICTION.

11 (B) AN AFFECTED LOCAL JURISDICTION THAT IS NOT A RESPONSIBLE PUBLIC
12 ENTITY FOR THE RESPECTIVE QUALIFYING TRANSPORTATION FACILITY SHALL,
13 WITHIN 60 DAYS AFTER RECEIVING THE NOTICE UNDER THIS SUBSECTION, SUBMIT
14 ANY COMMENTS IT MAY HAVE, IN WRITING, ON THE PROPOSED QUALIFYING
15 TRANSPORTATION FACILITY TO THE RESPONSIBLE PUBLIC ENTITY AND INDICATE
16 WHETHER THE FACILITY IS COMPATIBLE WITH THE LOCAL COMPREHENSIVE PLAN.

17 2-707.

18 (A) A PUBLIC ENTITY MAY DEDICATE ANY PROPERTY INTEREST THAT IT HAS
19 FOR PUBLIC USE AS A QUALIFIED TRANSPORTATION FACILITY IF THE PUBLIC
20 ENTITY FINDS THAT THE DEDICATION OF THE PROPERTY INTEREST WILL SERVE THE
21 PUBLIC PURPOSE OF THIS SUBTITLE.

22 (B) IN CONNECTION WITH DEDICATION OF A PROPERTY INTEREST UNDER
23 THIS SECTION AND SUBJECT TO THE PROVISIONS OF THIS SUBTITLE, A PUBLIC
24 ENTITY MAY CONVEY ANY PROPERTY INTEREST THAT IT HAS TO THE OPERATOR FOR
25 THE CONSIDERATION THE PUBLIC ENTITY MAY DETERMINE.

26 (C) THE CONSIDERATION PROVIDED FOR IN SUBSECTION (B) OF THIS SECTION
27 MAY INCLUDE THE AGREEMENT OF THE OPERATOR TO OPERATE THE QUALIFYING
28 TRANSPORTATION FACILITY.

29 2-708.

30 (A) (1) THE OPERATOR MAY ACQUIRE, CONSTRUCT, IMPROVE, OR OPERATE
31 A QUALIFYING TRANSPORTATION FACILITY.

32 (2) THE OPERATOR MAY OWN, LEASE, OR ACQUIRE ANY RIGHT TO USE
33 OR OPERATE A QUALIFYING TRANSPORTATION FACILITY.

34 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
35 OPERATOR MAY IMPOSE USER FEES OR ENTER INTO SERVICE CONTRACTS IN
36 CONNECTION WITH THE USE OF THE QUALIFYING TRANSPORTATION FACILITY.

1 (2) THE OPERATOR MAY NOT IMPOSE TOLLS OR FEES ON ANY EXISTING
2 INTERSTATE HIGHWAY OR ON ANY FREE ROAD, BRIDGE, TUNNEL, OR OVERPASS
3 UNLESS THE ROAD, BRIDGE, TUNNEL, OR OVERPASS IS RECONSTRUCTED TO
4 PROVIDE FOR INCREASED CAPACITY.

5 (C) (1) THE OPERATOR MAY FINANCE THE QUALIFYING TRANSPORTATION
6 FACILITY IN AN AMOUNT AND ON TERMS AND CONDITIONS AS MAY BE DETERMINED
7 BY THE OPERATOR.

8 (2) THE OPERATOR MAY ISSUE DEBT, EQUITY, OR OTHER SECURITIES OR
9 OBLIGATIONS, ENTER INTO SALE AND LEASEBACK TRANSACTIONS, AND SECURE ANY
10 FINANCING WITH A PLEDGE OF, SECURITY INTEREST IN, OR LIEN ON, ANY OR ALL OF
11 ITS PROPERTY, INCLUDING ALL OF ITS PROPERTY INTERESTS IN THE QUALIFYING
12 TRANSPORTATION FACILITY.

13 (D) SUBJECT TO APPLICABLE PERMIT REQUIREMENTS, THE OPERATOR MAY
14 CROSS ANY CANAL OR NAVIGABLE WATERCOURSE AS LONG AS THE CROSSING DOES
15 NOT UNREASONABLY INTERFERE WITH THE NAVIGATION AND USE OF THE
16 WATERWAY.

17 (E) IN OPERATING THE QUALIFYING TRANSPORTATION FACILITY, THE
18 OPERATOR MAY:

19 (1) MAKE CLASSIFICATIONS ACCORDING TO REASONABLE CATEGORIES
20 FOR ASSESSMENT OF USER FEES; AND

21 (2) WITH THE CONSENT OF THE RESPONSIBLE PUBLIC ENTITY, MAKE
22 AND ENFORCE REASONABLE RULES TO THE SAME EXTENT THAT THE RESPONSIBLE
23 PUBLIC ENTITY MAY MAKE AND ENFORCE RULES WITH RESPECT TO A SIMILAR
24 TRANSPORTATION FACILITY.

25 (F) THE OPERATOR SHALL:

26 (1) ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE THE
27 QUALIFYING TRANSPORTATION FACILITY IN A MANNER THAT:

28 (I) MEETS THE ENGINEERING STANDARDS OF THE RESPONSIBLE
29 PUBLIC ENTITY FOR TRANSPORTATION FACILITIES OPERATED AND MAINTAINED BY
30 THE RESPONSIBLE PUBLIC ENTITY; AND

31 (II) IS IN ACCORDANCE WITH THE PROVISIONS OF THE
32 COMPREHENSIVE AGREEMENT;

33 (2) KEEP THE QUALIFYING TRANSPORTATION FACILITY OPEN FOR USE
34 BY THE MEMBERS OF THE PUBLIC AT ALL TIMES AFTER ITS INITIAL OPENING UPON
35 PAYMENT OF THE APPLICABLE USER FEES OR SERVICE PAYMENTS, EXCEPT:

36 (I) FOR TEMPORARY CLOSURES BECAUSE OF EMERGENCIES;

1 (II) WITH THE CONSENT OF THE RESPONSIBLE PUBLIC ENTITY, FOR
2 PROTECTION OF PUBLIC SAFETY; OR

3 (III) DURING REASONABLE PERIODS OF TIME, FOR CONSTRUCTION
4 OR MAINTENANCE PROCEDURES;

5 (3) MAINTAIN, OR PROVIDE BY CONTRACT FOR THE MAINTENANCE OF,
6 THE QUALIFYING TRANSPORTATION FACILITY;

7 (4) PAY WORKERS THE ESTIMATED PREVAILING WAGE FOR WORK
8 PERFORMED IN CONSTRUCTING, MAINTAINING, OR OPERATING THE QUALIFYING
9 TRANSPORTATION FACILITY;

10 (5) COOPERATE WITH THE RESPONSIBLE PUBLIC ENTITY IN
11 ESTABLISHING ANY INTERCONNECTION WITH THE QUALIFYING TRANSPORTATION
12 FACILITY REQUESTED BY THE RESPONSIBLE PUBLIC ENTITY; AND

13 (6) COMPLY WITH THE PROVISIONS OF THE COMPREHENSIVE
14 AGREEMENT AND ANY SERVICE CONTRACT.

15 2-709.

16 (A) PRIOR TO ACQUIRING, CONSTRUCTING, IMPROVING, MAINTAINING, OR
17 OPERATING A QUALIFYING TRANSPORTATION FACILITY, THE OPERATOR SHALL
18 ENTER INTO A COMPREHENSIVE AGREEMENT WITH THE RESPONSIBLE PUBLIC
19 ENTITY.

20 (B) THE COMPREHENSIVE AGREEMENT SHALL PROVIDE FOR:

21 (1) DELIVERY OF PERFORMANCE AND PAYMENT BONDS IN
22 CONNECTION WITH THE CONSTRUCTION OF OR IMPROVEMENTS TO THE
23 QUALIFYING TRANSPORTATION FACILITY, IN THE FORMS TO THE RESPONSIBLE
24 PUBLIC ENTITY;

25 (2) REVIEW OF PLANS AND SPECIFICATIONS FOR THE QUALIFYING
26 TRANSPORTATION FACILITY BY THE RESPONSIBLE PUBLIC ENTITY AND APPROVAL
27 BY THE RESPONSIBLE PUBLIC ENTITY IF THE PLANS AND SPECIFICATIONS
28 CONFORM TO STANDARD CONDITIONS OF THE RESPONSIBLE PUBLIC ENTITY;

29 (3) INSPECTION OF, CONSTRUCTION OF, OR IMPROVEMENTS TO THE
30 QUALIFYING TRANSPORTATION FACILITY BY THE RESPONSIBLE PUBLIC ENTITY TO
31 ENSURE CONFORMANCE WITH ENGINEERING STANDARDS ACCEPTABLE TO THE
32 RESPONSIBLE PUBLIC ENTITY;

33 (4) MAINTENANCE OF A POLICY OF PUBLIC LIABILITY INSURANCE OR
34 SELF-INSURANCE, IN FORM AND AMOUNT SATISFACTORY TO THE RESPONSIBLE
35 PUBLIC ENTITY AND REASONABLY SUFFICIENT TO INSURE COVERAGE OF TORT
36 LIABILITY TO THE PUBLIC AND EMPLOYEES AND TO ENABLE THE CONTINUED
37 OPERATION OF THE QUALIFYING TRANSPORTATION FACILITY;

1 (5) MONITORING OF THE MAINTENANCE PRACTICES OF THE OPERATOR
2 BY THE RESPONSIBLE PUBLIC ENTITY AND THE TAKING OF ANY ACTIONS THE
3 RESPONSIBLE PUBLIC ENTITY FINDS APPROPRIATE TO ENSURE THAT THE
4 QUALIFYING TRANSPORTATION FACILITY IS PROPERLY MAINTAINED;

5 (6) REIMBURSEMENT TO BE PAID TO THE RESPONSIBLE PUBLIC ENTITY
6 FOR SERVICES PROVIDED BY THE RESPONSIBLE PUBLIC ENTITY;

7 (7) FILING OF APPROPRIATE FINANCIAL STATEMENTS ON A PERIODIC
8 BASIS;

9 (8) A REASONABLE MAXIMUM RATE OF RETURN ON INVESTMENT FOR
10 THE OPERATOR; AND

11 (9) THE DATE OF TERMINATION OF THE OPERATOR'S AUTHORITY AND
12 DUTIES UNDER THIS SUBTITLE AND DEDICATION TO THE APPROPRIATE PUBLIC
13 ENTITY.

14 (C) (1) THE COMPREHENSIVE AGREEMENT SHALL PROVIDE FOR USER FEES
15 THAT MAY BE ESTABLISHED DURING THE PERIOD OF THE OPERATOR'S AUTHORITY
16 BY AGREEMENT OF THE PARTIES.

17 (2) USER FEES SHALL BE SET AT A LEVEL THAT, TAKING INTO ACCOUNT
18 ANY SERVICE PAYMENTS, ALLOWS THE OPERATOR THE RATE OF RETURN ON
19 INVESTMENT SPECIFIED IN THE COMPREHENSIVE AGREEMENT.

20 (3) A COPY OF ANY SERVICE CONTRACT ENTERED INTO SHALL BE FILED
21 WITH THE RESPONSIBLE PUBLIC ENTITY.

22 (4) A SCHEDULE OF THE CURRENT USER FEES SHALL BE MADE
23 AVAILABLE BY THE OPERATOR TO ANY MEMBER OF THE PUBLIC ON REQUEST.

24 (5) IN NEGOTIATING USER FEES UNDER THIS SUBSECTION, THE
25 PARTIES SHALL ESTABLISH FEES THAT ARE THE SAME FOR PERSONS USING THE
26 FACILITY UNDER LIKE CONDITIONS AND THAT WILL NOT MATERIALLY DISCOURAGE
27 USE OF THE QUALIFYING TRANSPORTATION FACILITY.

28 (6) THE EXECUTION OF THE COMPREHENSIVE AGREEMENT OR ANY
29 AMENDMENT TO THE COMPREHENSIVE AGREEMENT SHALL CONSTITUTE
30 CONCLUSIVE EVIDENCE THAT THE USER FEES PROVIDED FOR IN THE AGREEMENT
31 COMPLY WITH THIS SUBTITLE.

32 (7) USER FEES ESTABLISHED IN THE COMPREHENSIVE AGREEMENT AS
33 A SOURCE OF REVENUES MAY BE IN ADDITION TO, OR IN LIEU OF, SERVICE
34 PAYMENTS.

35 (D) IN THE COMPREHENSIVE AGREEMENT, THE RESPONSIBLE PUBLIC ENTITY
36 MAY AGREE TO MAKE GRANTS OR LOANS TO THE OPERATOR FROM TIME TO TIME
37 FROM AMOUNTS RECEIVED FROM THE FEDERAL GOVERNMENT OR ANY AGENCY OR
38 INSTRUMENTALITY OF THE FEDERAL GOVERNMENT.

1 (E) (1) THE COMPREHENSIVE AGREEMENT SHALL INCORPORATE THE
2 DUTIES OF THE OPERATOR UNDER THIS SUBTITLE AND MAY CONTAIN SUCH OTHER
3 TERMS AND CONDITIONS THAT THE RESPONSIBLE PUBLIC ENTITY DETERMINES
4 SERVE THE PUBLIC PURPOSE OF THIS SUBTITLE.

5 (2) THE COMPREHENSIVE AGREEMENT MAY CONTAIN PROVISIONS
6 UNDER WHICH THE RESPONSIBLE PUBLIC ENTITY AGREES TO PROVIDE NOTICE OF
7 DEFAULT AND CURE RIGHTS FOR THE BENEFIT OF THE OPERATOR AND THE
8 PERSONS SPECIFIED IN THE COMPREHENSIVE AGREEMENT AS PROVIDING
9 FINANCING FOR THE QUALIFYING TRANSPORTATION FACILITY.

10 (3) THE COMPREHENSIVE AGREEMENT MAY CONTAIN ANY OTHER
11 LAWFUL TERMS AND CONDITIONS TO WHICH THE OPERATOR AND THE RESPONSIBLE
12 PUBLIC ENTITY MUTUALLY AGREE, INCLUDING PROVISIONS REGARDING
13 UNAVOIDABLE DELAYS OR PROVISIONS PROVIDING FOR A LOAN OF PUBLIC FUNDS
14 TO THE OPERATOR TO ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE
15 ONE OR MORE QUALIFYING TRANSPORTATION FACILITIES.

16 (F) (1) THE COMPREHENSIVE AGREEMENT SHALL PROVIDE FOR THE
17 DISTRIBUTION OF ANY EARNINGS IN EXCESS OF THE MAXIMUM RATE OF RETURN AS
18 NEGOTIATED IN THE COMPREHENSIVE AGREEMENT.

19 (2) EXCESS EARNINGS MAY BE DISTRIBUTED TO:

20 (I) THE TRANSPORTATION TRUST FUND;

21 (II) THE RESPONSIBLE PUBLIC ENTITY;

22 (III) THE OPERATOR FOR DEBT REDUCTION; OR

23 (IV) AFFECTED LOCAL JURISDICTIONS.

24 (G) CHANGES IN THE TERMS OF THE COMPREHENSIVE AGREEMENT, AS MAY
25 BE AGREED UPON BY THE PARTIES FROM TIME TO TIME, SHALL BE ADDED TO THE
26 COMPREHENSIVE AGREEMENT BY WRITTEN AMENDMENT.

27 2-710.

28 (A) (1) THE RESPONSIBLE PUBLIC ENTITY MAY TAKE ANY ACTION TO
29 OBTAIN FEDERAL, STATE, OR LOCAL ASSISTANCE FOR A QUALIFYING
30 TRANSPORTATION FACILITY THAT SERVES THE PUBLIC PURPOSE OF THIS SUBTITLE.

31 (2) THE RESPONSIBLE PUBLIC ENTITY MAY ENTER INTO ANY
32 CONTRACTS REQUIRED TO RECEIVE FEDERAL ASSISTANCE.

33 (B) IF THE RESPONSIBLE PUBLIC ENTITY IS A STATE AGENCY, ANY FUNDS
34 RECEIVED FROM THE STATE OR FEDERAL GOVERNMENT OR ANY AGENCY OF THE
35 STATE OR FEDERAL GOVERNMENT SHALL BE SUBJECT TO APPROPRIATION BY THE
36 GENERAL ASSEMBLY.

1 (C) THE RESPONSIBLE PUBLIC ENTITY MAY DETERMINE THAT IT SERVES THE
2 PUBLIC PURPOSE OF THIS SUBTITLE FOR ALL OR A PORTION OF THE COSTS OF A
3 QUALIFYING TRANSPORTATION FACILITY TO BE PAID, DIRECTLY OR INDIRECTLY,
4 FROM THE PROCEEDS OF A GRANT OR LOAN MADE BY THE LOCAL, STATE, OR
5 FEDERAL GOVERNMENT OR ANY AGENCY OF THE LOCAL, STATE, OR FEDERAL
6 GOVERNMENT.

7 2-711.

8 (A) (1) AFTER PROVIDING NOTICE TO THE OPERATOR AND TO THE SECURED
9 PARTIES THAT APPEAR IN THE OPERATOR'S RECORDS, THE DEPARTMENT MAY BRING
10 AN ACTION FOR A JUDGMENT BY DEFAULT IN A COURT OF COMPETENT
11 JURISDICTION IF A MATERIAL DEFAULT HAS OCCURRED.

12 (2) EXCEPT UPON AGREEMENT OF THE OPERATOR AND ANY OTHER
13 PARTIES IDENTIFIED IN THE COMPREHENSIVE AGREEMENT, A RESPONSIBLE PUBLIC
14 ENTITY MAY NOT EXERCISE ANY OF THE REMEDIES PROVIDED IN THIS SECTION OR
15 IN § 2-712(B) AND (C) OF THIS SUBTITLE UNLESS A JUDGMENT BY DEFAULT HAS BEEN
16 ENTERED BY A COURT OF COMPETENT JURISDICTION.

17 (B) ON ENTRY BY THE COURT OF A JUDGMENT BY DEFAULT UNDER
18 SUBSECTION (A) OF THIS SECTION, THE RESPONSIBLE PUBLIC ENTITY MAY:

19 (1) TAKE OVER THE TRANSPORTATION FACILITY AND SUCCEED TO ALL
20 OF THE RIGHT, TITLE, AND INTEREST IN THE TRANSPORTATION FACILITY, SUBJECT
21 TO SUBSECTION (C) OF THIS SECTION AND ANY LIENS ON REVENUES PREVIOUSLY
22 GRANTED BY THE OPERATOR TO ANY PERSON PROVIDING FINANCING;

23 (2) IF THE RESPONSIBLE PUBLIC ENTITY HAS THE POWER OF
24 CONDEMNATION, EXERCISE THE POWER OF CONDEMNATION TO ACQUIRE THE
25 QUALIFYING TRANSPORTATION FACILITY, EXCEPT THAT A PERSON THAT HAS
26 PROVIDED FINANCING FOR THE QUALIFYING TRANSPORTATION FACILITY, AND THE
27 OPERATOR, TO THE EXTENT OF ITS CAPITAL INVESTMENT, MAY PARTICIPATE IN THE
28 CONDEMNATION PROCEEDINGS WITH THE STANDING OF A PROPERTY OWNER;

29 (3) TERMINATE THE COMPREHENSIVE AGREEMENT AND EXERCISE ANY
30 OTHER RIGHTS AND REMEDIES THAT MAY BE AVAILABLE AT LAW OR IN EQUITY; AND

31 (4) MAKE OR CAUSE TO BE MADE ANY APPROPRIATE CLAIMS UNDER
32 THE PERFORMANCE OR PAYMENT BONDS REQUIRED BY § 2-708(B)(1) OF THIS
33 SUBTITLE.

34 (C) (1) IF THE RESPONSIBLE PUBLIC ENTITY ELECTS TO TAKE OVER A
35 QUALIFYING TRANSPORTATION FACILITY UNDER SUBSECTION (B)(1) OF THIS
36 SECTION, THE RESPONSIBLE PUBLIC ENTITY SHALL:

37 (I) ACQUIRE, CONSTRUCT, IMPROVE, OPERATE, AND MAINTAIN
38 THE TRANSPORTATION FACILITY;

1 (II) IMPOSE USER FEES FOR THE USE OF THE TRANSPORTATION
2 FACILITY; AND

3 (III) COMPLY WITH ANY SERVICE CONTRACTS AS IF IT WERE THE
4 OPERATOR.

5 (2) ANY REVENUES THAT ARE SUBJECT TO A LIEN SHALL BE
6 COLLECTED FOR THE BENEFIT OF, AND PAID TO, SECURED PARTIES, AS THEIR
7 INTERESTS MAY APPEAR, TO THE EXTENT NECESSARY TO SATISFY THE OPERATOR'S
8 OBLIGATIONS TO SECURED PARTIES, INCLUDING THE MAINTENANCE OF RESERVES,
9 AND THE LIENS SHALL BE CORRESPONDINGLY REDUCED AND, WHEN PAID OFF,
10 RELEASED.

11 (3) BEFORE ANY PAYMENTS TO, OR FOR THE BENEFIT OF, SECURED
12 PARTIES, THE RESPONSIBLE PUBLIC ENTITY MAY USE REVENUES TO PAY CURRENT
13 OPERATION AND MAINTENANCE COSTS OF THE TRANSPORTATION FACILITY,
14 INCLUDING COMPENSATION TO THE RESPONSIBLE PUBLIC ENTITY FOR ITS
15 SERVICES IN OPERATING AND MAINTAINING THE QUALIFYING TRANSPORTATION
16 FACILITY.

17 (4) (I) REMAINING REVENUES, AFTER ALL PAYMENTS FOR
18 OPERATION AND MAINTENANCE OF THE TRANSPORTATION FACILITY AND
19 PAYMENTS TO OR FOR THE BENEFIT OF SECURED PARTIES HAVE BEEN MADE, SHALL
20 BE PAID TO THE OPERATOR, SUBJECT TO THE NEGOTIATED MAXIMUM RATE OF
21 RETURN.

22 (II) THE RIGHT TO RECEIVE PAYMENT UNDER THIS PARAGRAPH
23 SHALL BE CONSIDERED JUST COMPENSATION FOR THE QUALIFYING
24 TRANSPORTATION FACILITY.

25 (5) THE FULL FAITH AND CREDIT OF THE RESPONSIBLE PUBLIC ENTITY
26 SHALL NOT BE PLEDGED TO SECURE ANY FINANCING OF THE OPERATOR BY THE
27 ELECTION TO TAKE OVER THE QUALIFYING TRANSPORTATION FACILITY.

28 (6) ASSUMPTION OF THE OPERATION OF THE QUALIFYING
29 TRANSPORTATION FACILITY DOES NOT OBLIGATE THE RESPONSIBLE PUBLIC ENTITY
30 TO PAY ANY OBLIGATION OF THE OPERATOR FROM SOURCES OTHER THAN
31 REVENUES.

32 2-712.

33 (A) (1) AT THE REQUEST OF THE OPERATOR, THE RESPONSIBLE PUBLIC
34 ENTITY MAY EXERCISE ANY POWER OF CONDEMNATION THAT IT HAS UNDER LAW
35 FOR THE PURPOSE OF ACQUIRING ANY REAL PROPERTY OR ESTATES OR INTERESTS
36 IN REAL PROPERTY TO THE EXTENT THAT THE RESPONSIBLE PUBLIC ENTITY FINDS
37 THAT THE ACTION SERVES THE PUBLIC PURPOSE OF THIS SUBTITLE.

38 (2) AN AMOUNT TO BE PAID IN A CONDEMNATION PROCEEDING UNDER
39 THIS SECTION SHALL BE PAID BY THE OPERATOR.

1 (B) EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, UNTIL THE
2 COURT HAS ENTERED A FINAL ORDER OF DEFAULT UNDER § 2-711(A) OF THIS
3 SUBTITLE, THE POWER OF CONDEMNATION MAY NOT BE EXERCISED AGAINST A
4 QUALIFYING TRANSPORTATION FACILITY.

5 (C) AFTER THE ENTRY OF A FINAL ORDER OF DEFAULT, ANY RESPONSIBLE
6 PUBLIC ENTITY HAVING THE POWER OF CONDEMNATION UNDER LAW MAY
7 EXERCISE THAT POWER AS PROVIDED IN § 2-711(B)(2) OF THIS SUBTITLE IN LIEU OF,
8 OR AT ANY TIME AFTER TAKING OVER THE TRANSPORTATION FACILITY UNDER §
9 2-711(B)(1) OF THIS SUBTITLE.

10 2-713.

11 (A) THE OPERATOR AND EACH PUBLIC SERVICE COMPANY, PUBLIC UTILITY,
12 RAILROAD, OR CABLE TELEVISION PROVIDER, WHOSE FACILITIES ARE TO BE
13 CROSSED OR AFFECTED BY A QUALIFYING TRANSPORTATION FACILITY SHALL
14 COOPERATE FULLY WITH THE QUALIFYING TRANSPORTATION FACILITY IN
15 PLANNING AND ARRANGING THE MANNER OF THE CROSSING OR RELOCATION OF
16 THE FACILITIES.

17 (B) AN ENTITY SPECIFIED IN SUBSECTION (A) OF THIS SECTION, POSSESSING
18 THE POWER OF CONDEMNATION MAY EXERCISE THOSE POWERS IN CONNECTION
19 WITH THE MOVING OR RELOCATION OF FACILITIES TO BE CROSSED BY THE
20 QUALIFYING TRANSPORTATION FACILITY OR THAT MUST BE RELOCATED TO THE
21 EXTENT THAT THE MOVING OR RELOCATION IS MADE NECESSARY OR DESIRABLE BY
22 CONSTRUCTION OF OR IMPROVEMENTS TO THE QUALIFYING TRANSPORTATION
23 FACILITY, WHICH SHALL BE CONSTRUED TO INCLUDE CONSTRUCTION OF OR
24 IMPROVEMENTS TO TEMPORARY FACILITIES FOR THE PURPOSE OF PROVIDING
25 SERVICE DURING THE PERIOD OF CONSTRUCTION OR IMPROVEMENT.

26 (C) AN AMOUNT TO BE PAID FOR THE CROSSING, CONSTRUCTION, MOVING, OR
27 RELOCATING OF FACILITIES SHALL BE PAID FOR BY THE OPERATOR.

28 (D) (1) IF THE OPERATOR AND A PUBLIC SERVICE COMPANY, PUBLIC
29 UTILITY, RAILROAD, OR CABLE TELEVISION PROVIDER ARE NOT ABLE TO AGREE
30 WITH THE QUALIFYING TRANSPORTATION FACILITY ON A PLAN FOR THE CROSSING
31 OR RELOCATION, THE DEPARTMENT MAY DETERMINE THE MANNER IN WHICH THE
32 CROSSING OR RELOCATION IS TO BE ACCOMPLISHED AND ANY DAMAGES DUE
33 ARISING OUT OF THE CROSSING OR RELOCATION.

34 (2) THE DEPARTMENT MAY EMPLOY EXPERT ENGINEERS WHO SHALL
35 EXAMINE THE LOCATION AND PLANS FOR THE CROSSING OR RELOCATION, HEAR
36 ANY OBJECTIONS AND CONSIDER MODIFICATIONS, AND MAKE A RECOMMENDATION
37 TO THE DEPARTMENT.

38 (3) IF AN EXPERT IS EMPLOYED UNDER THIS SUBSECTION, THE COST OF
39 THE EXPERT IS TO BE BORNE BY THE OPERATOR.

1 2-714.

2 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, LAW
3 ENFORCEMENT OFFICERS OF THE STATE AND EACH AFFECTED LOCAL
4 JURISDICTION SHALL HAVE THE SAME POWERS AND JURISDICTION WITHIN THE
5 LIMITS OF A QUALIFYING TRANSPORTATION FACILITY AS THEY HAVE IN THEIR
6 RESPECTIVE AREAS OF JURISDICTION.

7 (2) LAW ENFORCEMENT OFFICERS SHALL HAVE ACCESS TO THE
8 QUALIFYING TRANSPORTATION FACILITY AT ANY TIME FOR THE PURPOSE OF
9 EXERCISING POWERS AND JURISDICTION UNDER THIS SUBSECTION.

10 (3) THE AUTHORITY GRANTED TO A LAW ENFORCEMENT OFFICER
11 UNDER THIS SUBSECTION DOES NOT EXTEND TO THE PRIVATE OFFICES, BUILDINGS,
12 GARAGES, AND OTHER IMPROVEMENTS OF THE OPERATOR TO ANY GREATER
13 DEGREE THAN THE POLICE POWER EXTENDS TO ANY OTHER PRIVATE BUILDINGS
14 AND IMPROVEMENTS.

15 (B) (1) TO THE EXTENT THE TRANSPORTATION FACILITY IS A ROAD, BRIDGE,
16 TUNNEL, OVERPASS, OR SIMILAR TRANSPORTATION FACILITY FOR MOTOR VEHICLES,
17 THE TRAFFIC AND MOTOR VEHICLE LAWS OF THE STATE OR LOCAL JURISDICTION
18 SHALL APPLY IN THE SAME MANNER THAT THEY APPLY TO CONDUCT ON SIMILAR
19 TRANSPORTATION FACILITIES IN THE STATE OR LOCAL JURISDICTION.

20 (2) PUNISHMENT FOR OFFENSES SHALL BE AS PRESCRIBED BY LAW FOR
21 CONDUCT OCCURRING ON SIMILAR TRANSPORTATION FACILITIES IN THE STATE OR
22 LOCAL JURISDICTION.

23 2-715.

24 (A) THE RESPONSIBLE PUBLIC ENTITY SHALL TERMINATE THE OPERATOR'S
25 AUTHORITY AND DUTIES UNDER THIS SUBTITLE ON THE DATE SET FORTH IN THE
26 COMPREHENSIVE AGREEMENT.

27 (B) ON TERMINATION, THE AUTHORITY AND DUTIES OF THE OPERATOR
28 UNDER THIS SUBTITLE SHALL CEASE, AND THE QUALIFYING TRANSPORTATION
29 FACILITY SHALL BE DEDICATED TO THE RESPONSIBLE PUBLIC ENTITY OR, IF THE
30 QUALIFYING TRANSPORTATION FACILITY WAS INITIALLY DEDICATED BY AN
31 AFFECTED LOCAL JURISDICTION, TO THE AFFECTED LOCAL JURISDICTION, FOR
32 PUBLIC USE.

33 2-716.

34 (A) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED AS OR DEEMED TO BE A
35 WAIVER OF THE SOVEREIGN IMMUNITY OF THE STATE, ANY RESPONSIBLE PUBLIC
36 ENTITY, OR ANY AFFECTED LOCAL JURISDICTION, OR ANY OFFICER OR EMPLOYEE
37 THEREOF WITH RESPECT TO THE PARTICIPATION IN, OR APPROVAL OF, ANY PART OF
38 THE QUALIFYING TRANSPORTATION FACILITY OR ITS OPERATION, INCLUDING
39 INTERCONNECTION OF THE QUALIFYING TRANSPORTATION FACILITY WITH ANY
40 OTHER TRANSPORTATION FACILITY.

1 (B) COUNTIES AND MUNICIPAL CORPORATIONS IN WHICH A QUALIFYING
2 TRANSPORTATION FACILITY IS LOCATED SHALL POSSESS SOVEREIGN IMMUNITY
3 WITH RESPECT TO THE CONSTRUCTION AND OPERATION OF THE QUALIFYING
4 TRANSPORTATION FACILITY.

5 2-717.

6 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, DIVISION II
7 OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO A
8 COMPREHENSIVE AGREEMENT DEVELOPED UNDER THIS SUBTITLE.

9 (B) (1) A UNIT OF STATE GOVERNMENT, AS DEFINED IN § 11-101(X) OF THE
10 STATE FINANCE AND PROCUREMENT ARTICLE, THAT IS A RESPONSIBLE PUBLIC
11 ENTITY SHALL DEVELOP PROCEDURES FOR THE DEVELOPMENT AND
12 IMPLEMENTATION OF COMPREHENSIVE AGREEMENTS THAT ARE CONSISTENT WITH
13 § 13-103 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

14 (2) A UNIT OF STATE GOVERNMENT SHALL ENSURE THAT A
15 COMPREHENSIVE AGREEMENT DEVELOPED UNDER THIS SUBTITLE IS CONSISTENT
16 WITH THE PROCEDURES DEVELOPED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS
17 SUBSECTION.

18 2-718.

19 THE DEPARTMENT SHALL HAVE EXCLUSIVE JURISDICTION TO ADJUDICATE
20 ALL MATTERS SPECIFICALLY COMMITTED TO ITS JURISDICTION BY THIS SUBTITLE.

21 2-719.

22 THIS SUBTITLE MAY BE CITED AS THE PUBLIC-PRIVATE TRANSPORTATION ACT
23 OF 2003.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2003.